

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

STATE OF WASHINGTON,

*Plaintiff,*

v.

ADAMS COUNTY SHERIFF'S  
OFFICE and ADAMS COUNTY,

*Defendants.*

No. 2:25-cv-00099-RLP

MOTION TO DISMISS "ADAMS  
COUNTY SHERIFF'S OFFICE"

May 26, 2205  
Oral Argument Schedule To Be  
Determined Pursuant to LCR  
7(i)(3)(B)

**I. INTRODUCTION**

Washington's Complaint purports to sue the "Adams County Sheriff's Office." Washington jurisprudence confirms that it is not a proper party to a lawsuit. Because it lacks the capacity to sue or be sued, it must be dismissed.

**II. ARGUMENT.**

In an action involving claims against a county, Washington courts have repeatedly held that the county itself is the only entity capable of being sued. The statute says this explicitly: "The several counties in this state shall have capacity as bodies corporate, to sue and be sued in the manner prescribed by law ..." RCW

1 36.01.010. However, no such authority or standing to be sued is given to the Sheriff  
 2 or his office. The Complaint alleges that “Defendant Adams County Sheriff’s Office  
 3 is an agency of Adams County and may be sued pursuant to RCW 36.28.010.” That  
 4 section of code, however, only establishes the duties and obligations of the Sheriff. It  
 5 does not allow the office, or the Sheriff himself, to sue or be sued.

6 Decades of Washington jurisprudence confirm this. In *Foothills Development*  
 7 *Co. v. Clark Cnty. Bd. of Cnty. Com’rs*, 46 Wash. App. 369 (Wash. App. Div. 2, 1986),  
 8 the Court concluded that a “Board of County Commissioners is not a separate entity  
 9 that has the capacity to be sued.” *Id.* at 377. The court compared the statutory  
 10 authority of the county in RCW 36.01.010 to the statute creating the board of  
 11 commissioners:

12 Under RCW 36.32.120, county commissioners ‘shall’ (6) ‘*in the name of the*  
 13 *county* prosecute and defend all actions for and against the county ...’  
 14 (Italics ours.) This section does not give the Board the authority to  
 15 prosecute and defend all actions in its own name. If the Legislature had  
 intended to give the Board of County Commissioners this authority, it could  
 have included such authority in this provision.

16 *Foothills Development*, 46 Wash. App. at 376-77. Following *Foothills*, the Court of  
 17 Appeals has held that “RCW 36.32.120(6), read together with RCW 36.01.010 and  
 18 .020, makes clear the legislative intent that in a legal action involving a county, the  
 19 county itself is the only legal entity capable of suing and being sued. It follows that a  
 20 county council is not a legal entity separate and apart from the county itself.” *Nolan*  
 21 *v. Snohomish Cnty.*, 59 Wash. App. 876, 883 (Wash. App. Div. 1, 1990). Courts,  
 22 including this Court, have routinely followed this same line of reasoning to conclude  
 23

1 that the sheriff's office is not a proper defendant, because it, too, is not capable of  
2 suing and being sued.

3 In *Tahraoui v. Brown*, 2015 WL 563806, at \*7 (Wash. App. Div. 2, 2015), the  
4 court examined the very statute cited here by Washington, and concluded that it did  
5 not allow suits against a county sheriff's office. "Chapter 36.28 RCW establishes the  
6 county sheriff. The chapter outlines the duties, powers, functions, and limitations of  
7 the office. See RCW 36.28.010, .020, .110, .150. But nothing in the statute  
8 demonstrates that the legislature intended to create the Pierce County Sheriff's  
9 Department as a legal entity, separate and distinct from the county itself, with the  
10 capacity to sue and be sued." This Court has agreed, twice, in both *Assenberg v. Cnty.*  
11 *of Whitman*, 2015 WL 5178032 (E.D. Wash. 2015) and *Richmond v. Spokane Cnty.*  
12 *Sheriff's Office*, 2021 WL 6202838 (E.D. Wash. 2021). In *Assenberg*, the plaintiff sued  
13 a number of Whitman County agencies, including the sheriff's office. The Court  
14 held that "Under RCW 36.28.010, which outlines the duties, functions, and  
15 limitations of the office, the county sheriff's office is charged with keeping the peace  
16 of the county. No language in this statute demonstrates that the legislature intended  
17 a county sheriff's office to be a legal entity, separate and distinct from the county  
18 itself." *Assenberg*, 2015 WL 5178032 at \*7. It reiterated that prohibition six years  
19 later. "Washington case law is well-settled on the matter. Washington courts have  
20 routinely held that in a legal action involving a county, the county itself is the only  
21 legal entity capable of suing and being sued. ... Plaintiff's Complaint improperly  
22 names SCSO [Spokane County Sheriff's Office], an entity of Spokane County, as a  
23 Defendant in this case." *Richmond*, 2021 WL 6202838 at \*2.

1 Washington's decision to name the Adams County Sheriff's Office as a  
2 defendant is contrary to clearly established Washington law. To the extent  
3 Washington's allegations stem from the conduct of the Adams County Sheriff's  
4 Office, such legal claims lie against Adams County. In case this Court disagrees,  
5 Defendant Adams County Sheriff's Office expressly reserves all other defenses—  
6 including that Plaintiff fails to state a claim, that Plaintiff will not prevail on the  
7 merits of its claim, that the Keep Washington Working Act violates the Supremacy  
8 Clause, that the Keep Washington Working Act is preempted by federal law, that  
9 the Keep Washington Working Act violates intergovernmental immunity, and that  
10 the equities do not favor injunctive or declaratory relief—and will raise those  
11 defenses at an appropriate time.

### 12 **III. CONCLUSION.**

13 Adams County Sheriff's Office lacks the legal capacity to sue or be sued under  
14 Washington law. It is not a proper party, and must be dismissed.<sup>1</sup>

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21 <sup>1</sup> Counsel for the State has indicated it intends to seek remand. The parties will  
22 coordinate to present the Court with a proposed schedule for considering all  
23 dispositive issues at a date and time acceptable to the Court.

1 April 4, 2025.

2  
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4  
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**CERTIFICATE OF SERVICE**

I hereby certify that on April 4, 2025, I served the foregoing MOTION TO DISMISS SHERIFF'S OFFICE in *WASHINGTON V. ADAMS COUNTY*, No. 2:25-cv-00099-RLP (E.D. Wash.) via email with prior consent of the parties.

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